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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,053	08/11/2000	Cynthia Calonge	22554.2	7195

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COX & SMITH INCORPORATED
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EXAMINER

NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/637,053

Applicant(s)
Calonge

Examiner
Cuong H. Nguyen

Art Unit
3625



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 20, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

DETAILED ACTION

1. This Office Action is the response to the amendment mailed on 5/20/2003.

2. Claims 1-3 are pending in this application.

Response

3. Applicant' arguments have been fully considered but they are not persuasive with previous cited references for 35 U.S.C. §103(a) rejections. RFA or CPO meanings may not distinguish in the claims 1-3, since these claims are essentially directed to a method for establishing and brokering a transaction between purchasers and vendors on the Internet, comprising steps of:

- providing a form;
- submitting a form;
- comparing contents in that form to a server's database;
- communicate to "match" vendor;
- responses from "match" vendor to purchaser , etc.

The examiner submits that a specific form (whether it is a CPO of Walker, or a RFP of these pending claims) comprising common analogous contents that are not distinguishing each other (CPO of Walker, or a RFP of these pending claims) from claim's concept as 5 steps analyzed above.

On page 4, para. 7, & on page 5, para.2, the applicant argues that there is a distinction between a CPO & a RFP. The examiner submits that a reasonable term such as "a specific form" is used to interpret claim's language. The examiner reviewed thoroughly Walker et al., and he recognizes that reference is

obvious with what the applicants claimed. The applicant is requested to point that distinction out in the pending claim for a convincing argument.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Re. claims 1-3: These claims are rejected under 35 U.S.C. § 103(a) as being un-patentable over **Walker et al.** (US Pat. 6,085,169 – priority date: 9/04/1996).

A. Re. to claim 1: **Walker et al.** obviously suggest a method for establishing and initiating a transaction between purchasers and vendors over a wide area computer network, the method comprising the steps of:

- providing a vendor database, said database comprising information on vendors, said information comprising a description of the goods and services offered by said vendors (see **Walker et al.**, Fig.16a, ref. 1606);
- providing a request for proposal to a purchaser over said network (see **Walker et al.**, Fig.1, ref. 110);
- receiving said request for proposal from a purchaser, said proposal comprising a description of the goods and services required by said purchaser (see **Walker et al.**, Fig.16a, ref. 1608);
- comparing said proposal's info. with said info. in a vendor database (see **Walker et al.**, Fig.16b, ref. 1640);

- identifying vendors in said vendor's database offering goods and services that are similar to said goods and services required by said purchaser (see

Walker et al., Fig.16b, ref. 1644);

- communicating said proposal's info. to identified vendors (see **Walker et al.**, Fig.19, refs. 1935, 1980); and

- communicating a response from identified vendors to said purchaser, said response comprising a proposal to provide goods and services to said purchaser (see **Walker et al.**, Fig.16b, ref. 1664).

Although the specification may indicate exemplary situations, the examiner considers that CPO (of Walker), or a RFP (of these pending claims) meanings may not be distinguished in pending claims 1-3, since these claims are essentially directed to a method for establishing and brokering a transaction between purchasers and vendors on the Internet, comprising core steps of:

- providing a form;
- submitting a form;
- comparing contents in that form to a server's database;
- communicate to "match" vendor;
- responses from "match" vendor to purchaser , etc.
- The examiner submits that a specific form (whether it is a CPO or a RFP)

comprising common analogous contents that are not distinguishing each other (RFO or CPO) from claim's concept as 5 core steps analyzed above.

B. Re. to claim 2: **Walker et al.** obviously suggest a method for establishing and initiating a transaction between a purchaser and vendors over a wide area

computer network, wherein said comparing step is carried out automatically by a centralized data processing system linked to said network and said vendor database (see **Walker et al.**, Fig.16b, ref. 1664).

C. Re. to claim 3: **Walker et al.** obviously suggest a method for establishing and initiating a transaction between purchasers and vendors over a wide area computer network, wherein said comparing step comprises: displaying a vendor selection list to said purchaser over said network, said list comprising vendor(s), and said info. in said vendor's database associated with said vendor(s);a and said identifying step comprises receiving a selection of vendors from said purchaser over said network (see **Walker et al.**, Figs.8 , 17a (ref. 1735), and Fig.17b ref. 1740).

5. It would be obvious to one with ordinary skill in the art for using **Walker et al.**'s reference to derive analogous steps having pending claimed limitations because **Walker et al.** already suggest claimed steps for establishing and initiating a transaction (conditional purchase offer form) between purchasers and vendors over a wide area computer network by utilizing a system and a method having claimed capabilities for a "request for proposal form". Cited prior art limitations are not necessary spelled-out exactly claimed languages, because cited prior art are also directed to an analogous application as what the applicant did. The cited references are not limited to described embodiments in these disclosures. It is reasonable that many other variations/modifications, and other uses of the cited prior art would be apparent to those skilled in the art without departing from the scope and spirit of cited patent's claims. It should be

understood that it is sufficient to make an analogy of RFP (request for proposal) and CPO (conditional purchase offer) since **Walker et al.**'s CPO contain similar steps.

Conclusion

6. Claims 1-3 are not patentable. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. These following references are also considered pertinent to claimed subject matters:

- Walker et al., (US Pat. 6,085,169 – 7/04/2000) about a conditional purchase offer management system.

- Barnes et al., (US Pat. 5,970,475 – 10/19/1999) about an electronic procurement system enables corporate purchasers and suppliers to make transactions for purchase and supply of goods or services.

- Sheflott et al., (US Pat. 5,802,493 – 9/01/1998) about a method and an apparatus for generating a proposal response.
- Gardner et al., (US Pat. 5,758,327 – 5/26/1998) about an electronic requisition and authorization process, wherein a central computer system is linked to a number of companies by means of an external communication line; and a requester at a company may identify items to be ordered thru. a requisition.
- From <http://www.findarts.com>, Florafax announces Gerald Stevens completes acquisition of FlowerLink.com, Business Wire, Vero Beach – Florida, 2/22/1999.
- From <http://www.findarts.com>, Resetting the playing field for mid-market M&A, Mergers & Acquisitions, Sept-Oct. 1999.
- From <http://www.findarts.com>, James Carbone, There's lots more to the Web than click and buy, Purchasing, 10/21/1999.
- From <http://www.findarts.com>, Iconomy.com and NewsReal partner in pioneering "Commerce-in-Content" solution to enable increased sales, customer retention, Business Wire, Cambridge-Mass., 10/20/1999.
- From <http://www.findarts.com>, Buyer's guide to software for purchasing, Purchasing, 7/15/1999.
- From <http://www.findarts.com>, Marlene Piturro, How midsize companies are buying ERP (enterprise resource planning software), Journal of Accountancy, 9/1999.
- From <http://www.findarts.com>, Paul Foley, Boom time for electronic commerce – rhetoric or reality?, Business Horizons, Sept.-Oct. 1998.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong H. Nguyen whose telephone number is 703-305-4553. The examiner can normally be reached on Mon.-Fri. from 7:15 AM to 3:15 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins, can be reached on (703)308-1344.

Any response to this action should be mailed to:

Amendments

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

(703)305-7687 [Official communications]

or 703-746-5572 (RightFax)

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist with telephone: (703)308-1113.

Cuong H. Nguyen

8/08/2003

Primary Examiner